

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ERIC CRAIG CHILDRESS,)	
)	
Petitioner,)	2:07-cv-1398-KJD-PAL
)	
vs.)	ORDER
)	
BRIAN WILLIAMS, <i>et al.</i> ,)	
)	
Respondents.)	
	/	

Petitioner has submitted a motion for leave to proceed *in forma pauperis* and a petition for a writ of habeas corpus. On October 30, 2007, this Court denied petitioner's motion to proceed *in forma pauperis* and directed petitioner to pay the \$5.00 filing fee within 30 days. (Docket #3). The deadline for payment of the filing fee was December 5, 2007. To date, petitioner has failed to make payment of the \$5.00 filing fee. The Court will grant petitioner one final opportunity to submit the filing fee. Petitioner's failure to pay the filing in accordance with this order will result in dismissal of this action.

1 On October 17, 2007, petitioner filed an “ex parte motion for appointment of
2 counsel.” (Docket #2). There is no constitutional right to appointed counsel for a federal habeas
3 corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d
4 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v.*
5 *Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*,
6 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be
7 appointed if the complexities of the case are such that denial of counsel would amount to a denial of
8 due process, and where the petitioner is a person of such limited education as to be incapable of
9 fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d
10 948 (8th Cir. 1970). The petition on file in this action is sufficiently clear in presenting the issues
11 that petitioner wishes to bring. It does not appear that counsel is justified in this instance. The
12 motion shall be denied.

13 On December 11, 2007, petitioner filed an “ex parte motion to file additional and
14 supplemental motions.” (Docket #4). Petitioner seeks to file “additional motions should such
15 motions become appropriate” in this case. Petitioner’s motion for leave to file additional and
16 supplemental motions is denied at this juncture, as he has not specified the nature of what motions he
17 seeks to file. Moreover, petitioner is advised that his petition should contain all claims that he seeks
18 to assert in this action. Finally, until payment of the filing fee is accomplished, no further motions or
19 documents shall be filed.

20 **IT IS THEREFORE ORDERED** that within **twenty (20) days** from the date of
21 entry of this order, petitioner **SHALL MAKE PAYMENT** of the **\$5.00** filing fee to the Clerk of
22 Court. **Failure to do so will result in the dismissal of this action.**

23 **IT IS FURTHER ORDERED** that the Clerk shall **RETAIN** the petition but not file
24 it at this time.

1 **IT IS FURTHER ORDERED** that petitioner's "ex parte motion for appointment of
2 counsel" (Docket #2) is **DENIED**.

3 **IT IS FURTHER ORDERED** that petitioner's "ex parte motion to file additional
4 and supplemental motions" (Docket #4) is **DENIED**.

5 DATED: February 20, 2008.



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9 UNITED STATES DISTRICT JUDGE
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